



**United States Department of Justice**

*United States Attorney  
Northern District of New York*

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May 12, 2022

Honorable Thomas J. McAvoy  
Senior U.S. District Judge  
Federal Building and U.S. Courthouse  
15 Henry Street  
Binghamton, New York 13901

Re: *United States v. Jacob Delaney*, 20-CR-00335 (TJM)

Dear Judge McAvoy,

The government opposes the defendant's request for bail pending appeal. Under 18 U.S.C. § 3143(b)(1), the court "shall order" the detention of a person who has been found guilty of an offense, is sentenced to a term of imprisonment, and is pending appeal, unless the court finds by clear and convincing evidence that the defendant does not pose a risk of flight or a danger to others; the "appeal is not for purpose of delay"; and the appeal presents "a substantial question of law or fact likely to result in" reversal. *See United States v. Taubman*, 297 F.3d 161, 167 (2d Cir. 2002).

The government does not believe that the defendant is flight risk, nor does the government believe that the defendant's appeal has been filed for the purpose of delay. However, the government believes that the defendant is a danger to children, and that the issues preserved by the defendant for appeal are unlikely to result in a reversal of the court's prior ruling on the defendant's suppression motion.

For more than one year the defendant sought child pornography on the Internet, amassing a collection of over 10,000 child pornography still image files, and between about 150 and 200 child pornography video files. PSR ¶ 5. Some of the image and video files possessed by the defendant depicted children being sexually exploited in sadistic ways, including by having objects inserted into their anuses. *Id.* The defendant's actions demonstrate his sexual interest in children. Moreover, while the court did find that the issues raised by the defendant in his suppression motion made for some "close call[s]," the defendant has not demonstrated that he is likely to prevail on appeal. Notably, district court rulings surrounding probable cause for search warrants are afforded "substantial deference" by an appellate court. *United States v. Boles*, 914 F.3d 95, 102-03 (2d Cir. 2019) (citations omitted).

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For the reasons argued above, the government requests that the defendant either be detained immediately following his sentencing hearing, or that he be given a surrender date within three weeks of his sentencing hearing.

Thank you.

Sincerely,

CARLA B. FREEDMAN  
UNITED STATES ATTORNEY

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